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No. 765

IN THE

SUPREME COURT OF THE UNITED STATES

LESLIE E. JETT,
Petitioner,
VS.
UNITED STATES OF AMERICA,
Respondent.

EXHIBIT TO
PETITION FOR WRIT OF CERTIORARI

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McQUIDDY PRINTING CO., NASHVILLE, TENN.

EXHIBIT

TESTIMONY OF
SENATOR EVERETT McKINLEY DIRKSEN
IN THE CASE OF
United States of America vs. William G. Stratton.

In the United States District Court,
Northern District of Illinois,
Eastern Division.

United States of America,
Plaintiff,

vs.

No. 64 CR 221.

William G. Stratton,
Defendant.

Before Judge Will and a Jury.
Friday, March 5, 1965,
10:00 o'clock a. m.

Trial resumed pursuant to adjournment.

Present:

Mr. J. Crowley,
Mr. Russo,
Mr. Koplan;
Mr. G. Crowley,
Mr. Barnett,
Mr. Emanuelson.

7561* **EVERETT McKINLEY DIRKSEN,**

called as a witness on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

The Witness: May we have some water?

The Court: Mr. Crowley, John Crowley is getting it.

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* Page numbers refer to testimony of Senator Everett McKinley Dirksen taken at the trial of the case of United States of America vs. William G. Stratton.

Mr. George Crowley: Oh, all right.

The Court: No, Senator, that is just for the recording device.

The Witness: Oh, I see.

The Court: The acoustics are sufficiently good so that you will be easily heard without any amplification, I am sure.

The Witness: Thank you, your Honor.

Direct Examination,

By Mr. Barnett:

Q. Will you state your name, please?

A. Everett McKinley Dirksen.

Q. What is your position, sir?

A. A member of the United States Senate.

Q. From the State of Illinois?

7562 A. That is correct.

Q. Senator, will you tell us something about your background, where you were born, and your education, and your political background?

A. I was born, grew up and was educated in my native city, Pekin, Illinois. I did my undergraduate work at the University of Minnesota. I spent two years in the United States Army in World War I.

I returned and engaged in various lines of business.

Subsequently I was elected to the City Council in my home city. Thereafter I became a candidate for the Congress of the United States. I was defeated in a primary in 1930. I was nominated and elected in 1932. I served in the House of Representatives without interruption for eight consecutive terms.

7563 I developed coronary trouble which they thought was malignant. I retired from Congress on my own volition.

Subsequently I was urged to become a candidate for the United States Senate in 1950. I was nominated and

elected, and I am presently serving in the third year of the third term in the United States Senate.

So, I have spent most of my adult life in the Capitol city as a Congressman or as a member of the United States Senate.

Q. Senator, will you tell us what committees you served on and any chairmanships you held while a member of Congress and the House of Representatives?

A. I served on a great many committees, Insular Affairs, Banking, Territories, the District of Columbia, and I apprehend there were a good many others. But my main work in the House was on the House Appropriations Committee. I served as chairman of the Comimttee on the District of Columbia and thereby became the unofficial mayor of Washington for a period of two years. But the burden of my work was in the Appropriations and
7564 the Budget field.

Q. Senator, will you tell us what committees you have served on in the Senate, as well as any chairmanships you have held?

A. I have served on the Senate Judiciary Committee, and presently do, as the ranking minority member of that committee.

I have served on the Senate Banking Committee. I served on the Senate Appropriations Committee. I am now in my fourth term as the Minority Leader of the Senate.

I also serve presently on the Senate Finance Committee, which is the opposite number to the Revenue Committee in the House, namely, the Ways and Means Committee.

Q. What is the name of that last committee?

A. The Ways and Means Committee.

Q. And what is the name of the counterpart in the Senate?

A. The Senate Finance Committee.

Q. Now, is one of the functions of the House Ways and Means Committee to write tax laws of the United States?

A. Yes, anything that appertains to taxation
7565 must, in fact, under the constitution, originate in the House of Representatives, and begins with the Committee on Ways and Means.

7566 Q. And after the Congress has initiated a bill, what is the action of the Senate in respect to it?

A. The Senate, of course, can amend any tax bill that comes over. It can modify it in any particular whatsoever. But it does require the concurrence of both Houses finally, through the apparatus of the Conference Committee, before you reach agreement, and before it goes to the President either for signature or for disapproval.

Q. Now, Senator, are you familiar with the political machinery of the Democratic party and the Republican party in the State of Illinois?

A. Well, let me say that after more than thirty years, I have what might be called a reasonable familiarity with these processes and operations.

Q. Will you describe the differences in the parties to us insofar as their political strength is concerned and the leadership of the party?

Mr. John Crowley: I am going to object, Your Honor. I think this is clearly irrelevant.

7567 The Court: What is the relevancy or materiality of the relative strengths of the two political parties which, as I recall it, have shifted from time to time in the State of Illinois, to the issues in this case?

Mr. Barnett: Well——

The Court: I am going to sustain the objection.

By Mr. Barnett:

Q. Senator, will you tell us with respect to the Republican party where the general strength lies and where the leadership of the Republican party comes from in the State of Illinois?

Mr. John Crowley: I will object to that again, your Honor. I don't see the relevancy to this case.

Mr. Barnett: The relevancy, your Honor, is connected with the Governor of the State, when he is a Republican, being a political leader, as well as an official of the State.

Mr. John Crowley: I don't see the relative——

7568 The Court: Well, I think the purpose that you have just defined is much narrower than the question which you asked. I am going to sustain the objection to that question. I understand the relevance of the explanation which you gave, but the question was much broader than that. The question asked for the structure of leadership—structure and leadership of the Republican party in the State of Illinois. If you want to ask the Senator what the role of a govenor is in the Republican party, that is a specific question which I take it he can answer.

Mr. Barnett: I will be satisfied with that question, your Honor.

Senator, will you answer the Court's question?

By the Witness:

A. Generally speaking, I think the parties conform to a regular pattern. You have at the very bottom, and most——

Mr. John Crowley: Pardon me, Senator.

7569 Your Honor, I believe Mr. Barnett asked the Senator to answer the Court's question, and I don't think this is answering the Court's question.

The Court: Yes.

I think, Senator, that what Mr. Barnett and I agreed upon, at least, was that the proper question was what is the role of the Governor in the Republican party in the State of Illinois?

By the Witness:

A. In its simplest terms, the Governer is the leader of his party in the State.

By Mr. Barnett:

Q. Now, is that any different in the Republican party than in the Democratic party?

Mr. John Crowley: Objection, your Honor.

The Court: Yes, sustained.

By Mr. Barnett:

Q. Well, what duties are required of a Republican governor as the leader of his party in the state?

7570 A. The duties are manifold, to say the least. As a party leader, he has an interest in all of the party machinery, and that begins at the precinct level and goes up through the State Central Committee, consisting of one committeeman from each of the committee or congressional districts in the State.

Obviously, where other state officers fit into the general pattern, he has certain responsibility for leadership there also.

If there are other intermediate organizations, like an association of county chairmen, manifestly, he has an interest there.

And he is constantly counseling wherever he can with all of these organizations and affiliated groups for general party purposes.

7571 Q. Senator, do you know whether it is necessary or desirable for a political leader, such as a Republican governor of Illinois, to receive funds to enable him to carry out his obligations as a party leader?

Mr. John Crowley: I will object to that question. It calls for a conclusion of the witness.

The Court: Yes.

This, I take it, is an opinion of an expert. Overruled.

By the Witness:

A. Well, let me answer, if I may, in the very broadest sense, I have never yet found a substitute for money in a political field, I must say, and obviously in carrying on the work of a political organization and in projecting

an image for one or more candidates, it requires communication with your people, communications being through newspapers, by means of radio, by means of television, by means of public appearances of all kinds, whether in a ceremonial or in an administrative capacity. Obviously it requires funds to carry on these activities.

7572 By Mr. Barnett:

Q. Are you acquainted with Governor William G. Stratton?

A. Let me say that I have known him man and boy, since he was fourteen years old.

Q. And what has been your association with him?

A. It has been a very close association, particularly over the latter years, but if I recall correctly I first met him in company with his father, who was a candidate for state office, when he appeared in my home city of Pekin.

I think at that time he may have been twelve, thirteen or fourteen years of age.

Q. And have you been acquainted with his career since then?

A. I have been rather intimately acquainted with his career and to a very considerable extent I think I have been identified with his career.

Q. And are you familiar with his work as Governor of the State of Illinois?

A. I rather think so.

Q. And as a political leader and a Governor, how did you consider him?

7573 Mr. John Crowley: Your Honor, I will object to the relevancy of this.

The Court: Are we talking about did he think he was a good governor or bad governor?

Sustained.

Mr. Barnett: Talking about whether he was effective or not, your Honor.

The Court: Sustained.

7574 Mr. Barnett:

Q. Well, in his position as governor, are you acquainted with the activities that he carried on as governor?

A. First of all, I would be naturally familiar with his work as an administrator of the affairs of the state and everything that comes within the jurisdiction of the governor, because he is, after all, your Number One man, and therefore the administrator of the state affairs, and secondly, I am quite familiar with his activities in the realm of what I might call the state's official ambassador with its relationship with other states and organizations beyond the jurisdiction of the state; thirdly, I think I am familiar with his ceremonial activities of which there are so very many, and obviously places the governor in a rather unique position as distinguished from so many other positions in public service.

Q. Do you know what position the Governor held with respect to the Governors' Conferences?

A. Yes. I draw on memory, of course, but I recall
7575 that he was chairman of the Governors' Conference on one occasion. I don't know what the length of his tenure was. I think out of that came his chairmanship as a chairman of the so-called compact—Oil Compact Commission. I think he was on a number of very important committees that were functioning under the structure of the Governors' Conference, and that probably included the so-called Council of State Governments which was set up well over 30 years ago, and as I recall has its headquarters here in Chicago.

Q. Now, Senator, are you acquainted with Governor Stratton's activities as a political campaigner and party leader?

A. Very much so.

Q. Will you tell us what you know of his activities as a campaigner?

A. Well, I can only——

Mr. John Crowley: Pardon me, Senator.

I just wonder if he could fix a time as to the campaign.

Mr. Barnett: Throughout his life.

The Court: But I think the Senator can identify
7576 particular campaigns by years, which would be helpful in understanding the import of the testimony.

By the Witness:

A. I would have to draw entirely on recollection. As to his first campaign—and I have forgotten whether that was for State Treasurer or whether he ran for congressman-at-large, but I know it was a great many years ago, and insofar as that campaign had any identity with the old 16th Congressional District based on Peoria, which I represented in the Congress, while I not only campaigned with him, but I saw a great deal of him at that time.

And in connection with his campaign for State Treasurer, I have to rely on memory again here, but I think I campaigned in a good many portions of the state at that time, along with the general caravan that the party set up for that purpose, so that through all his elections, and there could have been as many as fifteen or sixteen primary and general elections, I had some identity more or less with virtually every one of them.

7577 Q. Would you consider him a successful campaigner?

A. Well——

Mr. John Crowley: I object to that. I don't see the relevancy, really.

The Court: No. Overruled.

You may answer, Senator.

By the Witness:

A. I think the record speaks for itself, and I think he was quite successful.

By Mr. Barnett:

Q. Are you acquainted with the demands which are made upon a governor, Republican governor, of the State of Illinois in his capacity as a political leader of the state?

A. Yes, sir.

Q. Will you tell us what type of demands those are?

A. Well, he was probably under a great deal more demand than one in my position as a legislator at the national level because as he goes about the state people readily identify him, of course, as the number one man in the state, they identify the Governor's lady as
7578 the First Lady of the State, and our people do make many demands upon them, and if I had to particularize I think in terms of the contributions and the donations that you are called upon to make, not merely to party organizations as such, which could be a precinct organization or a ward club, but for charitable purposes, for religious purposes, and nearly every other activity that would come into mind.

Q. Are you acquainted with the type of demands that are made upon the Governor in his capacity as Governor as an official of the state?

A. Well, let me say——

Mr. John Crowley: Your Honor, I think that question has been asked and answered.

Mr. Barnett: I just asked about political leader.

Mr. John Crowley: I think he asked about governor first.

Mr. Barnett: I asked a Republican governor of the state in his capacity as political leader.

By the Witness:

A. Well, it is rather difficult to distinguish
7579 where these demands fall; namely, whether they are made in his capacity as Governor or as political leader or because of his ceremonial responsibility in the state, and it is a little difficult to distinguish.

I can distinguish in my own case, I suppose, but I know the demands that are made upon me and have been ever since I have been in public service.

7580 By Mr. Barnett:

Q. Do you know anything about the requirement for the Governor to be available by telephone or other means to constituents or members of the official family of state?

A. I assume that governors differ, but I must say that Governor Stratton has been available and accessible by telephone day and night, certainly to me, ever since I can remember.

I would assume from conversations——

Mr. John Crowley: Then, Senator, I will enter an objection as to the assumption.

The Court: I think that is objectionable, what the witness assumes from conversations with others.

Sustained.

By Mr. Barnett:

Q. Have you had occasion to confer with the Governor by telephone at odd hours of the day or night?

A. Many times.

Q. As a legislator and a political campaigner, are you
7581 familiar with federal laws regulating the soliciting of political contributions by candidates for state office and federal laws pertaining to the taxability of such political contributions?

Mr. John Crowley: Your Honor, I will object to that question. I think——

The Court: He just asked whether he was familiar. Overruled.

Are you familiar, Senator, with these various laws that have been enumerated?

By the Witness:

A. I am quite familiar, of course, with the federal laws because I have been filing under the Federal Corrupt

Practices Act, and the forms required under that Act, ever since I took the Oath of Office as a member of the Congress.

Now, of course, it applies only to members of the United States Senate, representatives in Congress, delegates from the territories, and so forth. It has no immediate application to any state official as such.

By Mr. Barnett:

Q. Do you know whether there are any laws in
7582 the State of Illinois regulating contributions to officers or candidates for state office for the State of Illinois?

A. Insofar as I know, no.

Q. Now, Senator, are there any laws of Congress which attach taxability to political contributions?

Mr. John Crowley: Your Honor, I am going to object to this. Now we are going into an area of expertise and legal interpretation.

I think this is beyond the scope of this witness. Although a great legislator, I don't believe he is qualified to answer this question.

Mr. Barnett: I certainly think his status on the Senate Finance Committee qualifies him, your Honor.

The Court: As it pertains to the Internal Revenue Code?

Mr. Barnett: Yes, sir.

The Court: Senator, do you consider yourself an expert on the Internal Revenue Code?

The Witness: No, sir, your Honor.

7583 By Mr. Barnett:

Q. Senator, do you consider yourself an expert as to whether or not political contributions are taxable?

Mr. John Crowley: I will object.

The Court: No. I think that is a more restricted question. Overruled.

Mr. John Crowley: I will withdraw the objection to that.

The Court: All right.

By the Witness:

A. I think so, because I have had occasion to examine into it more than casually over a long period of years.

By Mr. Barnett:

Q. Senator, has Congress ever expressed an intent to tax political contributions?

Mr. John Crowley: I object to that, your Honor.

The Court: Has Congress ever expressed—I am going to sustain the objection to that. That is a broad question which calls for a conclusion with respect to the action of the Congress.

7584 Sustained.

By Mr. Barnett:

Q. Has Congress passed any legislation taxing political contributions?

Mr. John Crowley: Objection, your Honor.

The Court: Overruled. That is a specific question.

By the Witness:

A. As such, no.

By Mr. Barnett:

Q. Senator, where a candidate for office has received political contributions personally himself, in your opinion does he have any obligation to include such contributions in income on his federal tax returns?

A. If they are contributions and the Federal Corrupt Practices Act specifically uses the word contribution, the answer is no, they are not included.

Q. Now, in your opinion would this be true regardless of what use to which he put those contributions?

Mr. John Crowley: No, I won't object, your Honor.

7585 By the Witness:

A. Well, I think it is a matter of the donative intent of the contributor and if he places no restriction on it, then, of course, the donee or the recipient of the con-

tribution is free to use it as he sees fit, and that, of course, is a matter of individual judgment.

Q. With respect to taxability, is the donee under those circumstances in your opinion ever required to include any part of a political contribution on his income tax return?

Mr. John Crowley: I will object, your Honor. I think the witness answered.

The Court: I think that question is ambiguous, Mr. Barnett. You said under those circumstances, and I don't know what circumstances you are talking about. He talked about two circumstances. He talked about campaign contributions, which I take it are one type of contribution, and unrestricted gifts, which I take it are
7586 another contribution.

If you want to ask him whether under either of these circumstances it is taxable income, then I think we can understand what you are talking about.

I will sustain the objection.

7587 By Mr. Barnett:

Q. Where a candidate receives a contribution from a supporter, is there any requirement with respect to how he uses that money?

A. By requirement I would assume you mean a ruling or a regulation or an interpretation of existing law.

There could be such rulings, of course, by the Internal Revenue Service, but I know of nothing in existing law with respect to an interpretation that very specifically puts a restriction on him as to how he uses it once the contribution or the gift has been made for that purpose.

Q. Now, in your opinion, Senator, as a campaigner, who should be the judge with respect to how a political contribution is used?

Mr. John Crowley: I will object to that question, your Honor. The form of the question is bad.

The Court: Yes. Sustained.

By Mr. Barnett:

Q. Senator, you mentioned that a man in office such as governor or senator is besieged by requests
7588 for donations, perhaps prizes and things like that, from various organizations.

Is he normally able to meet these requests out of his salary in public office?

Mr. John Crowley: I will object to that, your Honor. It is leading. If anyone doesn't need to be lead, it is Senator Dirksen.

The Court: Sustained, Mr. Barnett.

Mr. Barnett: I beg your pardon?

The Court: I sustained the objection. It certainly is a leading question.

By Mr. Barnett:

Q. Senator, you referred to requests prior to this time. Is the salary of a public official sufficient to meet the demands financially made upon a man in the position of governor or senator?

Mr. Crowley: Same objection, your Honor.

The Court: Same ruling.

By Mr. Barnett:

Q. Senator, with respect to the demands that are made upon a man in public office, how does he normally meet those demands?

7589 Mr. John Crowley: Object to that, your Honor.

The Court: Overruled.

Mr. John Crowley: The phraseology, how he meets it.

The Court: If there is a norm the Senator can state it. If there isn't, he can state to the contrary.

Overruled.

By the Witness:

A. It is wholly a matter of judgment and capacity, and if counsel will permit, I can only say that I got rather curious about the demands on myself over a period of

time, and we clocked them for a period of about six months, and generally speaking they ran at the rate of roughly a hundred dollars a day. Those are all forms of demands, for political purposes, for non-political purposes, contributions where a church burned down or where a church wanted a new pipe organ or where they wanted to send a girls' basketball game to a league performance out east somewhere, and they are as varied as human activity.

7590 So we just lumped them all together and they ran at the rate of a hundred dollars a day.

Well, manifestly that would exceed your entire salary and how would you meet it unless you had sustaining funds out of which you could take care of it?

So you have to become very selective about meeting demands of that kind.

Q. And from where are such funds obtained?

A. Well, there are helpful contributions from those who recognize the difficulty that public service interposes for you, and you undertake to use such funds, if you can, for that purpose.

7591 Q. Now, these funds that are given to you from helpful supporters, do you consider those to be taxable or non-taxable?

A. Perhaps I ought to make one distinction, and that is it is a matter of individual judgment in every case, I suppose, as to how they are used and whether they are used unequivocally, but human judgment, being what it is, you can segregate it one way or another or you can put it in a lump sum and use it freely for all the purposes that come along, seeking, of course, to identify them as something that advances your political cause, your political ambitions and your political future.

Q. Incidentally, Senator, is the campaign of an officeholder limited to the period of time between his announcement and his election?

Mr. John Crowley: Your Honor, I am going to object.

Mr. Barnett is constantly leading the witness. I think this is a leading question.

Mr. Barnett: I will rephrase it, your Honor.

The Court: All right.

7592 By Mr. Barnett:

Q. What is the period of campaign with respect to a politician?

A. If I may venture the speculation, the federal government, I think, recognizes that once you are in public office there is something of a presumption that you are always a candidate, and as Thomas Jefferson once described, "In office few die and none resign."

Q. Now, Senator, there has been testimony in this trial that while Governor Stratton was in office as Governor, in addition to residing, as required by the Constitution, in the Mansion House at Springfield, he maintained a home in Morris, Illinois, and voted from that residence, and there is testimony that he prepared rooms in that house for his security guard when traveling in that area, and that his mother maintained open house at this residence to receive callers at least part of every day, and that he maintained an office in that home and that he used it as—that he used the home as an election night headquarters.

Would you regard the rehabilitation and upkeep of that home while he was in office as a personal or a political expense?

7593 Mr. John Crowley: I am going to object to this question. I don't think there is any basis for it.

The Witness: Where is the waterboy?

The Court: Would you get the Senator some water?

Mr. John Crowley: I have some for him right here.

The Witness: Thank you.

The Court: You are not asking for a tax opinion from the Senator; you are asking for a political opinion?

Mr. Barnett: That is right.

The Court: Overruled.

By the Witness:

A. Your home becomes a political center, whether you like it or not, and mine has been so long that I haven't known anything differently for over 30 years, except for that period when added responsibilities as Minority Leader of the Senate has virtually immobilized me in Washington, but when there was opportunity for me to be back here, your home was a scene of constant conferences and
7594 delegations day after day and night after night.

You always receive election returns there. That was the place where you received most of your telephone calls. It was the base of your operations.

I presume in all good judgment if one wanted to consider it as such, he could easily do so and sustain a case for himself.

By Mr. Barnett:

Q. Do I take it then, Senator, that your answer is that it could be considered a political expense?

Mr. John Crowley: I will object, your Honor.

The Court: Sustained. The witness has answered.
7595 By Mr. Barnett:

Q. Senator, there has been testimony in this trial that John Doctoroff, a famous artist, made an oil portrait of William G. Stratton, and that the portrait was reproduced and lithographed in his campaign for election in 1956——

Mr. John Crowley: Your Honor, I will object now even before Mr. Barnett has finished the question, because I see what the question is. It relates to the Doctoroff painting, which has no relevance here. We haven't charged it as an expenditure, and it doesn't enter into the computation of the taxable income here at all.

Mr. Barnett: Your Honor, if the Doctoroff painting has no relevance here, I don't know what it is doing in the case.

The Court: It was in the case to show expenditure prior to the tax period, wasn't it?

7596 Mr. John Crowley: No.

The Court: No, just to show expenditures in excess of——

Mr. John Crowley: It was paid by a campaign check, as a matter of fact.

The Court: It was paid out of the Oak Park Bank account.

Mr. Barnett: Then I don't understand what it was for, your Honor, because it wasn't paid out of the Stratton individual account. I don't understand.

The Court: Well, Mr. Barnett, if I understand the facts with respect to it, it was paid out of a check drawn on the campaign account. The government has not charged it as income to the defendant, so I don't see what relevance there is to the question.

Mr. Barnett: Well, I don't understand what it is in the case for then.

Mr. John Crowley: Your Honor, I am going to object to Mr. Barnett's comments.

The Court: Sustained.

7597 Mr. Barnett: Well, may I finish the question, at any rate, your Honor, for the record?

The Court: All right.

By Mr. Barnett:

Q. Senator—if I may repeat the question, your Honor—there has been testimony in this trial that John Doctoroff, a famous artist, made an oil portrait of William G. Stratton, and that the portrait was reproduced and lithographed in his campaign for election in 1956.

In your opinion, would the expenditure for such a portrait be considered a personal or a political expense?

Mr. John Crowley: Same objection.

The Court: Same ruling. Sustained.

By Mr. Barnett:

Q. Senator, in your campaign, have you ever had a portrait painted?

Mr. John Crowley: Objection, your Honor. I think it is irrelevant.

The Court: It is irrelevant. I agree. Sustained.

7598 The '56 expenditures, Mr. Barnett, as you well know, are not being charged as income to the defendant. We are dealing only with the years '57, '58, '59 and '60.

Mr. Barnett: Well, then, your Honor, I don't understand what it is in the case for.

The Court: Well, if you don't understand, I won't try to explain it again. I think I understand. It was part of the demonstration of no cash on hand at the outset of '57.

Mr. Barnett: Exactly, paid for not out of his funds, but out of the political campaign fund.

Mr. John Crowley: Your Honor, there is another reason why it is in the case, because it was and it is a net worth item that was constant through the period, and the government must include every net worth item in its net worth schedule.

7599 The Court: All right, that is the second reason why it is in the case, as I understand.

Mr. Barnett: Your Honor, what about the residual value?

Mr. John Crowley: Your Honor, if Mr. Barnett wants to argue about it, I think we ought to have a side bar conference. Otherwise, I object to his——

The Court: Proceed, Mr. Barnett.

By Mr. Barnett:

Q. Senator, with respect to a portrait which is painted and used in a campaign, do you consider that to be a personal expenditure or a political expenditure?

Mr. John Crowley: Objection, your Honor.

The Court: Sustained.

By Mr. Barnett:

Q. Senator, are you familiar with the lodge that was built by Governor Stratton during 1958 on the Sangamon River near Springfield?

A. No, sir.

7600 Q. Well, do you know that he has such a building?

A. Yes, sir.

Q. And have you ever been invited there?

A. Yes, sir.

Q. And do you know the use to which the Governor has put that boat?

Mr. John Crowley: Your Honor, I will object.

The Court: Sustained. He said he has never been there.

Mr. Barnett: He may still know the use.

The Court: It would have to be hearsay, certainly, Mr. Barnett. It couldn't be firsthand knowledge. Sustained.

By Mr. Barnett:

Q. Are you acquainted, Senator, with a houseboat that Governor Stratton owned during the years that he was in office as governor?

A. I know as of conversation.

Q. And have you been invited there?

A. Yes, sir.

7601 Q. And do you know the use to which he put it?

Mr. John Crowley: Objection.

The Court: Same ruling. Sustained.

By Mr. Barnett:

Q. Senator, there has been testimony in this trial that Governor Stratton from time to time had meetings at the lodge with persons of official or political nature, that he had entertainments for people of that nature at the lodge from time to time, and that he entertained officials—or members of the State Supreme Court on his houseboat, and that he entertained other state officials, political leaders, and out of state people on his houseboat.

A. I so understand from reports.

Q. Now, Senator, with respect to expenditures to keep up and maintain such a place as the lodge, or to buy and maintain such a commodity as a houseboat, would you consider those to be political in nature, or personal?

Mr. John Crowley: I am going to object to that, your Honor.

The Court: This is a hypothetical question you are
7602 asking the Senator?

Mr. Barnett: Yes, your Honor.

The Court: Then you can't say "there has been evidence in this case." You have to say, "Assume the following things."

But let's correct that.

You assume, Senator, that there is a lodge, and that all these things which Mr. Barnett has referred to are among the hypotheses of your hypothetical question. And you are now being asked your opinion, assuming those, do you have an opinion as to whether or not the expenditures in connection with such an establishment are personal or political?

If I understand, that is the question.

Now, did you have an objection? On what grounds, Mr. Crowley?

Mr. John Crowley: Your Honor, I have an objection on the grounds that the hypothetical is not a complete
7603 statement of the evidence in this case in regard to——

The Court: I think that is right, but I think for purposes of a hypothetical, it is not required that it be a complete statement. You can augment the hypothetical on cross-examination and see whether that changes the witness's expert opinion.

I will overrule the objection, and the witness may answer the hypothetical question based on the hypothetical assumption.

By the Witness:

A. To make sure that the record is clear, assuming the existence of such a houseboat, and assuming the existence of such a lodge, they can very well be centers of political activity, and can have an extraordinary usefulness for purposes of political conferences, as well as official conferences involving the business of the state.

By Mr. Barnett:

Q. Is there any special consideration with respect to the boat, the houseboat?

7604 Mr. John Crowley: I will object. The Senator has answered the question.

The Court. Sustained. Sustained.

By Mr. Barnett:

Q. Now, Senator, do you know the Governor's wife, Shirley Stratton?

A. Quite well.

Q. And are you acquainted with her activities while the Governor was in office?

A. Reasonably so.

7605 Q. Will you tell us what you know of her activities?

A. She performed all the duties and functions and responsibilities that one would normally expect of the First Lady of the state. She toured with the Governor on so many, many occasions, which could involve, for instance, the dedication of a bridge, it might involve the dedication of a new state building, it might be in attendance on the Governors' conference, it could be a political mass meeting, it could be a financial rally, it could be any one of a hundred different kinds of affairs.

And Mrs. Stratton was so very, very frequently in attendance at those. And I might add, as a P. S., that she was an excellent campaigner.

Q. An excellent campaigner?

A. Excellent campaigner.

Q. Would you consider the apparel of a person in that position to be of a political expense?

Mr. John Crowley: I am going to object to that, your Honor.

7606 The Court: The wearing apparel of the wife of the Governor be a political expense? Overruled. I am going to let the Senator answer that.

By the Witness:

A. Well, if counsel don't mind, let me amplify the answer in this respect. I have said a thousand times that Mrs. Dirksen is the most important unsalaried member of my staff. And that was true of my daughter when she worked for me as a receptionist, but was never on the public payroll.

Now, when they render service of that kind, then what is your obligation and your responsibility? To make sure that they fit into the scheme of things, and that in their public appearances when they attend you, that they look the part, let us say, and that's notably true where you have these ceremonial occasions. In consequence, expenditures of that kind, I think, are a reasonable request for political character, for how else would you do it?

And if I may go a little further, let's assume that the Governors' Conference meets in Chicago and they are here for a week. The Governor's wife attends

7607 every luncheon and every dinner. Well, she is there in her official capacity, as well as in a social capacity. You know how it is with the ladies. If they appear at two functions in the same dress, then the next time around there ought to be a new gown.

And you can well go on the theory that that is a very proper expense, and, therefore, could be deductible.

Q. Senator, where a man who was not a candidate for office at the time is the beneficiary of a testimonial dinner in a non-campaign year, and let us say as a result $100,000 is available and is turned over to that office-

holder, would you consider this to be taxable income to the recipient?

Mr. John Crowley: Your Honor, I am going to object to that question. There is no evidence in the record here as to testimonial dinners. In fact, there is evidence to the contrary. In the defendant's statements, he said he never had a testimonial dinner.

7608 The Court: Sustained.

By Mr. Barnett:

Q. Senator, assume that no testimonial dinner has been given for a perennial candidate for office, but that a group of friends give him money in non-campaign years. Would you consider that to be taxable income to him?

Mr. John Crowley: I will object again, your Honor. There has been no testimony here that a group of friends gave the defendant any money in non-campaign years.

Mr. Barnett: Well, there have been several people who testified to that.

Mr. John Crowley: Now——

The Court: I am going to sustain the objection to the question, Mr. Barnett.

By Mr. Barnett:

Q. Now, Senator, where an individual candidate receives money from acquaintances of his or friends of his, either in a campaign year or outside of a campaign year, without the exchange of anything for value, do you con-

7609 sider that to be taxable income to the candidate?

Mr. John Crowley: Your Honor, I am going to object to the form of that question. I think it is improper. The Senator has already stated that he is not an expert, he does not consider himself to be an expert in the Internal Revenue Code——

The Court: No, I think this question is simply a repetition of a previous question, that is, whether contributions received by a political candidate or by an officeholder are taxable income. The Senator said no. There isn't any

argument about that. I think it is repetitious, and I will sustain the objection on the grounds that it is repetitious.

Mr. Barnett: No further questions, your Honor.

The Court: All right, we will recess briefly before we have the cross-examination.

(Brief recess.)

7610 **Cross-Examination.**

The Court: Mr. Crowley.

By Mr. John Crowley:

Q. Senator, do you have some water there?

A. Yes, sir. Thank you.

Q. Senator, you said on direct examination, I believe, that if a politician's wife purchased clothing to attend political functions, that it would be a deductible item.

A. Did I say attend political functions?

Q. Yes, to attend political functions.

A. I thought I said several.

Q. Senator, do you consider your wife's clothing to be a deductible item?

A. Let me put it in this frame: I think it is a matter of personal judgment in every case. In——

Q. Senator, do you deduct your wife's clothing?

Mr. Barnett: Your Honor, I object to interrupting the Senator's response.

The Witness: If counsel——

Mr. John Crowley: I am sorry. I didn't realize you

7611 had not finished your answer.

The Witness: If coursel would permit me——

Mr. John Crowley: Certainly, Senator.

By the Witness:

A. (Continuing) Let me lay a little foundation for the answer. I am a legislator, and I always have been. I have never regarded myself as a ceremonial officer except once, and that was when I was the Chairman of the District of Columbia Committee in the House of Representatives.

Since, of course, they have no government of their own, that makes you automatically the mayor, the unofficial mayor of Washington.

In that capacity I had to preside over a good many meetings and functions that came there. Now, the Governor is pretty much in the same position. I have always said that the mayor of a large city like Chicago and the Governor of the State are in cubicles that you have to set apart from probably any other public official. They have to be aboard. There comes a nurses' convention or
7612 a governors' convention, there comes a dedication of a building—it is just as numerous as the imagination will permit—and he is expected to be there. His First Lady is expected to be there. That is not true of me, and for that reason I do make that ceremonial distinction, and it would occur to me that under those circumstances that you, the people of the state who have a pride in their governor and a pride in the first lady, would expect her to make the best kind of an appearance, and so as a matter of personal judgment that may be the judgment as to whether it is a deductible expense or whether it can be taken out of a common fund.

7613 Mr. John Crowley: In all due respect to the Senator, I now move to strike the answer as not responsive to the question.

The Court: It may have been over-responsive, but I take it the answer, Senator, as far as your wife's clothes are concerned, is no, you do not consider them to be deductible expenditures for the reasons you have explained?

The Witness: If we put that on a purely personal ground and make it a matter of judgment in every case, depending on who the individual, who the officeholder is, then, of course, I would have no choice except to concur in having it stricken, but I trust it will be made a part of the record.

By Mr. John Crowley:

Q. Senator, in your function as a legislator and as

Minority Leader of the United States Senate, you are called upon to be present at many public ceremonies, are you not?

7614 A. Yes.

Q. Do you consider your own clothing to be a deductible expense?

Mr. Barnett: Object to that, your Honor.

The Court: Overruled.

Mr. Barnett: There is no testimony in this case that any deductions for clothing were taken against a return.

The Court: Overruled.

By the Witness:

A. I would assume you would have to particularize that question a little if I was to give you a responsive answer. If, for some reason, I was on a committee or a delegation that was in charge of a function, I would appear there in a ceremonial capacity. That might be one thing. But if I appear in just the normal capacity as a member of the United States Senate, regardless of whether I am the Minority Leader or not, the answer might well be no.

By Mr. John Crowley:

Q. Well, Senator, then when you say you appear in

7615 a formal capacity or ceremonial capacity, do you mean in a full dress tuxedo, white tie and tails, as distinguished from the ordinary business suit which you wear every day as United States Senator?

A. I am afraid I can give you no generalized answer to that, and for a reason, because functions at the White House are white tie affairs. They are not necessarily ceremonial. They are given only because of a visiting potentate. You are not exhibited to public view in the presense of large crowds. You have no particular interest in projecting an image or furthering a political ambition of some kind. And so a generalized answer, may I respectfully submit, is just a little difficult.

7616 Q. Senator, you have a home in Pekin, Illinois?

A. Yes, sir.

Q. And is that your ancestral home?

A. No, it is not.

Q. And did you build that home, sir?

A. No, sir.

Q. Did you purchase it while you were a Congressman or a United States Senator?

A. No, sir.

Q. It was there before then?

A. Yes, sir.

Q. And——

A. But you ought to follow up with your question, may I respectfully submit.

Q. Fine, Senator. It is your home?

A. Yes, and no. The home actually belongs to my mother-in-law. But it is our home no less, because she has been a widow for a long, long time.

Q. And, Senator, there was a program on television a few weeks ago, a tribute to you, and you were photographed at a home in Florida. Is that your property, Senator?

7617 A. May I respectfully submit, counsel, that belongs to Mrs. Dirksen.

Q. And, Senator, where do you live when you are in Washington, in performing your duties?

A. We have a home in Virginia roughly thirty miles from the Capital, better designated as Broad Run Farms, Virginia.

Q. And is that yours, Senator?

A. That is a joint venture between Mrs. Dirksen and myself.

Q. And, Senator, the home in Virginia or the home in Florida, you didn't pay for either of those homes with campaign funds, did you?

A. No, sir.

Mr. John Crowley: I have no further questions of Senator Dirksen.

The Court: Mr. Barnett, do you have any additional questions?

Redirect Examination,

By Mr. Barnett:

Q. Senator, several questions were asked you concerning the deductibility of clothing as distinguished
7618 from the purchase of clothing as a political expenditure. Who is to be the judge with respect to how political expenditures are to be made?

Mr. John Crowley: I will object to that question, your Honor.

The Court: Sustained.

7619 By Mr. Barnett:

Q. With respect to clothing which you buy or wear during a campaign, or even after a campaign, do you consider whether that is deductible or not on your return, that that would be a proper expenditure politically?

Mr. John Crowley: Objection. Leading.

By Mr. Barnett:

Q. Do you consider that to be a political or a personal expenditure?

Mr. John Crowley: Objection, leading.

It is the same——

By Mr. Barnett:

Q. What type of expenditure do you consider that to be?

The Court: You may answer that. That is not leading, although it has certainly been led up to.

By the Witness:

A. It would appear to me that in every case it is a matter of personal judgment. One person may do it, another person may not. I think it depends somewhat on

the type of office you hold or the type of office to
7620 which you aspire.

I thought I tried to make it clear that there is quite a difference between my status as a legislator in the national field as distinguished from the governor of a state. There are so many occasions when the Governor must appear in a ceremonial capacity and obviously in a state of ten and a half million people, the fourth largest state in the union, his people expect him to make the right kind of an appearance, and it then becomes a matter for his judgment to determine whether this is a normal and a very proper deductible expense, and whether it might well be paid out of contributions or gifts, rather than out of his own personal income.

By Mr. Barnett:

Q. Well, then, Senator, I judge from that that there is certain types of clothing which you would think would be a proper deduction on the return of an officeholder, that is, the expense of the clothing could be deducted as a business expense, is that correct?

Mr. John Crowley: I will object to the form of that
7621 question, your Honor. This is redirect examination, not cross-examination.

The Court: Sustained.

By Mr. Barnett:

Q. In the instances where a governor, for instance, deducted the cost of no clothing on his return, would you see any objection to his using political funds to purchase clothing?

Mr. John Crowley: I will object to that question, your Honor.

The Court: Sustained.

By Mr. Barnett:

Q. Would you consider clothing purchased with political funds, which is worn by a governor, and for which he has

claimed no deduction on his income tax return, as an official expense?

Mr. John Crowley: Objection.

Mr. Barnett: There is no deduction claimed to the return, your Honor.

The Court: Mr. Barnett, that is not the basis for the objection. Mr. Crowley's objection isn't that the question is inaccurate; it is that it is leading.

7622 And now he suggests a subject that suggests the answer.

It leaves Senator Dirksen with a yes or no alternative.

7623 By Mr. Barnett:

Q. Senator, in addition to the question of clothing, as a political expert, do you consider it advisable and politically expedient for a man in public life and who is constantly campaigning to belong to large numbers of organizations?

Mr. John Crowley: Your Honor, I am going to object to that. That is beyond the scope of the cross-examination, for one thing. I think it is still leading.

The Court: This now seeks an opinion with respect to political practice, but you are right, it is beyond the scope of the cross-examination.

Sustained, Mr. Barnett.

By Mr. Barnett:

Q. Senator, as a political expert, do you consider the purchase of clothing by a man that is frequently and constantly campaigning to be a personal or political expense?

A. It could well be a political expense.

7624 Q. Very good.

A. And I make, of course, this qualification: I try always to put the Governor in a rather unique position because of his relationship to the people of the state and his ceremonial capacity as distinguished from my capacity as a legislator.

It makes quite a lot of difference, I think.

Mr. Barnett: Thank you, Senator.

Mr. John Crowley: Senator, just one further question:

Recross-Examination.

By Mr. John Crowley:

Q. When you were, as it were, Mayor of the District of Columbia did you deduct the cost of your wife's and your daughter's clothing?

A. No.

Mr. Barnett: There is not a line of testimony in here that any clothing has been deducted.

Mr. John Crowley: I think in light of the redirect examination——

7625 Mr. Barnett: There is not a line of testimony that any clothing has been deducted and the returns do not reflect any clothing deductions.

The Court: Sustained.

The Witness: As a postscript to history, I could give you an answer.

Mr. John Crowley: I have no further questions on redirect.

The Court: Any further questions?

I have a question or two, Senator.

7626 By the Court:

Q. I have a question or two, Senator:

You discussed earlier two types of contributions which I understood you recognized as typically received by candidates or political leaders, politicians, one, campaign contributions and, two, general gifts, if I understood you correctly.

Is that right?

A. Yes.

Q. In your experience do you have contributions received which are of two different types?

A. Yes, I think so, and may it please the Court, let me illustrate for example: There are such committees as the National Senatorial Campaign Committee, which both parties maintain. A man may send a contribution to that committee that may be earmarked for me or for any other senator. There is no interdiction on it, no indication as to how it shall be spent.

So if that contribution does reach me I would feel free to spend it in any way that my personal judgment dictated.

7627 Now in addition to that you get contributions that come directly to you, intended, of course, for the campaign that happens to be at hand, so there is a little bit of distinction there, I am quite sure. However, I don't know that there is any particular prohibition on how you should spend either one of these contributions.

7628 Q. Well, you are aware, I am sure, of the Internal Revenue ruling—I think it is 54-80—which provides that a campaign contribution or political contribution which is applied to a personal use, and the example given is the payment of a portion of an indebtedness on a mortgage on a residence, a personal residence, constitutes the receipt of taxable income.

You are familiar with that?

A. Yes.

Q. Now, that would indicate that if something is received as a campaign contribution it is received with something of a restriction upon its use.

Is it your experience that you receive contributions which are properly classified as campaign contributions as distinguished from general gifts or unrestricted contributions?

A. Generally speaking they would come to you, of course—if they come in check form—written out to your order or to your campaign committee or as a campaign

expenditure or to the campaign fund. They can sometimes be made out just to you as an individual, with
7629 an accompanying letter to indicate the intention of the contribution.

Now, I think I should point out, and probably importantly so, because of the possibilities that this particular case may have on the future, that in 1944 I was confronted with that very problem because there were forty-one members of the House of Representatives who thought that I ought to be a candidate for the national ticket of my party.

Well, I was a bit of a tyro in that respect and I wanted to be sure that I wasn't getting on false ground.

I actually went to see the general counsel of the Internal Revenue Service and also the general counsel of the Treasury Department to ascertain exactly what would happen if contributions came to me as a candidate for the vice presidency of the United States, and then I wanted to know particularly if any funds were left over what the disposition of those funds would be.

At that time I did secure in letter form a ruling to
7630 the effect that I could spend those funds any way I saw fit, and even if I appropriated them unto myself and then disposed them to various charities, they might be regarded as income; however, they would regard them as contributions and therefore they would not be taxable as such.

Now, that, mind you, was in 1944 and antedates 54-80 by at least ten years.

The Bureau has spoken on that subject on a number of occasions and particularly when I was chairman of the senatorial campaign committee I had to give a good deal of attention to it and I had some consultations, not only with the Secretary of the Treasurer and the Commissioner

of Internal Revenue, but with the general counsel, both of the Treasury and the Bureau at the time.

7631 It did develop a ruling which I have pasted in the campaign ledger. I made copies of it to make sure that it would go to everybody in the Senate on our side of the aisle who would be a candidate, and as I remember now the import of that ruling was that when contributions came there would be no interdiction on their expenditure.

Now, it could well be that there has been a modification since that time, but my own judgment impels me to the belief, and I think to the conviction, that when these contributions come the candidate, of course, has to follow his best judgment as to what constitutes a political expenditure, and that could very well be membership in a lodge on the ground that he is going to meet people, it could very well be an expenditure for a piece of artistry, which in my case was done, I think, by the committee itself.

I have scrawled thousands of inscribed photographs that have gone to every section of the country. I didn't have to pay for it, but I used it. The committee did.

7632 If I am not out of character and I am not offensive in what I say, when this matter of the so-called houseboat came up, I don't know how many hundreds of times I have been on one of at least four different Government vessels on the Potomac, where the Secretary of State, the Secretary of the Army, the Secretary of the Navy, the President of the United States, would ask you to meet him at the dock at five o'clock along with other people. You would go down the Potomac. You would have some food, but you would be discussing official matters.

Now, you could well be discussing political matters, and so who shall make the judgment as to whether it is a political expenditure fully justified and deductible or whether it isn't deductible?

7633 Q. These are government vessels?

A. That is right. The government owns them. The Navy supplies the personnel for them and the whole thing is paid for out of the taxpayers' treasury.

Q. Let me ask you, Senator, have you ever used campaign contributions for the purpose of clothing or other personal expenditures?

A. If it pleases the Court, and if my answer is not offensive in that it is too long, I came so close to it on one occasion and it might have been a very substantial sum, but I went to Washington without a long-tailed coat and a white tie, and the first White House reception I attended, I had no such equipment.

I made inquiry. Some thought a black tie and tuxedo was sufficient. Others thought I should have a white tie and long-tailed coat. The result was I was photographed and it went all over the country that I appeared at the first Roosevelt reception in a rented dress suit.

It was a matter of frightful embarrassment, I must
7634 say, to the court, and promptly they took up a collection in Peoria. As I recall, they raised $2,700, and then I was in difficulty, because I finally had to say to them, divide the funds and give part of it to the Salvation Army, part to the Red Cross, part to the American Legion, part to other charities, and so I was left finally to buy my own formal wear.

I came that close to making a deduction, but at long last I didn't. However, I felt that I might have been justified in so doing in view of the harassment and the embarrassment that I suffered.

7635 Q. All right. That must have been some years ago because public acceptance of rental formal wear has risen since those days.

A. May I say to the Court it happened in 1933.

Q. If I understand your answer to my question, it is

that you have not used campaign funds for personal expenditures?

A. There could have been occasions.

Q. Yes.

A. When it might have been identified as a personal matter. I have obviously tried to be careful about it, but it is a matter of judgment, finally, depending on your duties, your responsibilities, your ceremonial character, and what you think you have to do as a representative abroad and among other states, administratively and ceremonially, ten and one-half million people, and it does make a lot of difference in my judgment.

The Court: Any further questions?

Mr. John Crowley: No, your Honor.

The Court: All right, Senator. Thank you. You may be excused.

The Witness: Thank you.

7636 (Witness excused.)

The Court: We will recess until two.

The Witness: Thank you, sir.

(Whereupon a recess was taken herein until 2:00 p. m. of the same day.)

In the
UNITED STATES DISTRICT COURT,
Northern District of Illinois,
Eastern Division.

UNITED STATES OF AMERICA vs. WILLIAM G. STRATTON.	64 CR 221.

Certificate.

I hereby certify that the foregoing typewritten pages, numbered consecutively from 7561 to 7636, inclusive, are

a full, true and accurate transcript of my original shorthand notes taken of the proceedings had in the above-entitled cause before the Honorable Hubert L. Will and a jury on March 5, 1965.

HELEN K. THOMAS,
Official Court Reporter, United States District Court, Northern District of Illinois.